IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 7TH MARCH 2007 / 16TH PHALGUNA 1928

CRL.A.No. 1760 of 2006()

C.C.No.1833/2003 OF JUDICIAL FIRST CLASS MAGISTRATE COURT-I, KOCHI.

APPELLANT: COMPLAINANT.

SIBI CHAVARA, PROPRIETOR,
MEDIA EXPRESSION ADVERTISING AND MARKETING,
3RD FLOOR, NORTH PLAZA, NORTH RAILWAY STATION
ROAD, ERNAKULAM, COCHIN-682 018.

BY ADV. SRI.C.V.BIMAL ROY

RESPONDENTS: ACCUSED & STATE.

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1. MATHA PROTEIN P.LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR,
DR.S.RADHAMOHANAN, EZHUKONE P.O.,
KOLLAM, KERALA, PIN-691 505.

2. DR.S.RADHAMOHANAN, MANAGING DIRECTOR,
MATHA PROTEIN P.LTD., EZHUKONE P.O.,
KOLLAM, KERALA, PIN-691 505.

3. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.PUZHAKKARA MUHAMMED.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 07/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M. JAMES, J.

Criminal Appeal No.1760 of 2006

Dated this the 7th March, 2007.

J U D G M E N T

The complainant was not present, when the case was taken up before the Judicial First Class Magistrate Court-I, Kochi, for adducing evidence. There was no representation from the counsel also. Therefore, the complaint was dismissed, and the accused acquitted by the court below. Hence, this appeal after obtaining leave of this Court.

2. The learned counsel appearing for the appellant submits that the counsel for the appellant was representing a case before the High Court of Kerala, and thereafter, when he reached before the court below, the case was called and the complaint was dismissed. Service is complete in respect of respondents 1 and 2. But there is no representation from them. Hence, I heard the learned counsel appearing for the appellant.

3. In the facts situation, I am of the view that an opportunity be given to both sides to raise their contentions before the court below, so that the case could be disposed of, on merit.

4. In the result, the appeal is allowed. The impugned order, dated 21.4.2006 is set aside. C.C.No.1833/2003 is restored to the file of the Judicial First Class Magistrate Court-I, Kochi.

5. The complainant shall appear before the court below on 11.4.2007.

6. As the respondents 1 and 2 are not before me, steps according to the law, shall be initiated against them, to get their presence before the court below.

7. The learned Magistrate shall dispose of the matter, within three months from the date of production/appearance of respondents 1 and 2, the accused, before the court below, as per the law.

Criminal Appeal is allowed as above.

J.M. JAMES,
JUDGE

nj.